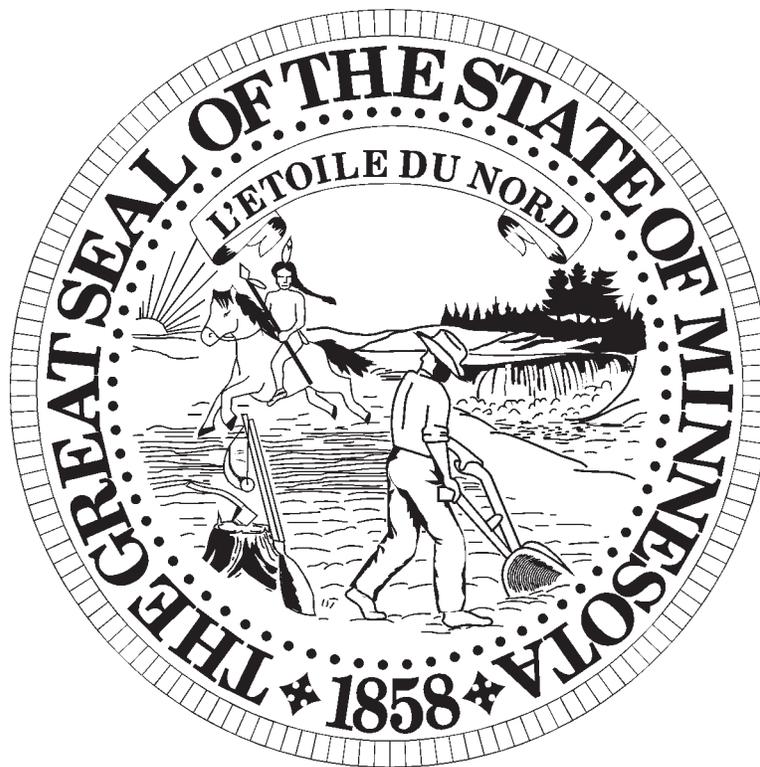


State of Minnesota

# State Register



**Rules and Official Notices Edition**

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# State Register

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# 34	<b>TUESDAY 21 FEBRUARY</b>	Noon Tuesday 14 February	Noon Wednesday 8 February
# 35	Monday 27 February	Noon Tuesday 21 February	Noon Wednesday 15 February
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# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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# Proposed Rules

**Comments on Planned Rules or Rule Amendments.** An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

**Rules to be Adopted After a Hearing.** After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

**Rules to be Adopted Without a Hearing.** Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

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## Minnesota Department of Human Services Division of Licensing

### Proposed Permanent Rules Relating to Licensing Rules Regarding Syrup of Ipecac Requirement

#### NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

#### Proposed Amendment to Licensing Rules Regarding Syrup of Ipecac Requirement, *Minnesota Rules*, parts 9502.0435, subpart 7; 9503.0090, subpart 1; 9503.0125; 9503.0140, subpart 16; and 9555.9720, subpart 1

**Introduction.** The Department of Human Services intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until March 15, 2006.

**Agency Contact Person.** Written or oral comments, questions about the rulemaking process, requests to receive a draft of the rules, and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Jodi Pope at the Department of Human Services; 444 Lafayette Road North; St. Paul, Minnesota 55155-3816, (651) 284-4204; Fax: (651) 297-3173; E-mail: [jodi.pope@state.mn.us](mailto:jodi.pope@state.mn.us). Questions about the substance of the rules should be directed to Peggy Cunningham at the

# Proposed Rules

Department of Human Services, 444 Pine Street; St. Paul, Minnesota 55155-3842; (651) 296-4144; [peggy.cunningham@state.mn.us](mailto:peggy.cunningham@state.mn.us). TDD users can call the Minnesota Relay Service at 711 or (800) 627-3529. For the **Speech to Speech Relay**, call (877) 627-3848.

**Subject of Rules and Statutory Authority.** The proposed rules are about the syrup of ipecac requirements for licensed child care and adult day services providers. Medical authorities no longer recommend that syrup of ipecac be used as a poison treatment strategy. Under the proposed rules, licensed child care and adult day services providers would no longer be required to keep syrup of ipecac in their first aid kits or, in the case of child care providers, to obtain parental permission to administer syrup of ipecac. **The Department is not proposing any other changes to the licensing rules.** The statutory authority to adopt the rules is *Minnesota Statutes*, section 245A.09. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m. on Wednesday, March 15, 2006, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on March 15, 2006. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: January 19, 2006

Kevin Goodno  
Commissioner

## 9502.0435 SANITATION AND HEALTH.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **First aid kit.** The provider shall have a first aid kit that contains bandages, sterile compresses, ~~ipecac syrup~~, scissors, an ice bag or cold pack, an oral or surface thermometer, mild liquid soap, and adhesive tape. A first aid manual must be included. The kit and manual must be accessible and taken on field trips.

[For text of subs 8 to 16, see M.R.]

## 9503.0090 INFORMATION FOR PARENTS.

Subpart 1. **Policies given to parents.** At the time of a child's enrollment, the parent must be provided with written notification of the:

[For text of items A to G, see M.R.]

H. center's policies on the administration of medicine ~~and permission requirement for the administration of ipecac syrup;~~

[For text of items I to O, see M.R.]

[For text of subp 2, see M.R.]

## 9503.0125 CHILDREN'S RECORDS.

At the time of enrollment in the center, the license holder must ensure that a record is maintained on each child. The record must contain:

[For text of items A to H, see M.R.]

I. ~~written authorization, if granted, for the license holder to administer ipecac syrup according to part 9503.0140;~~

~~F.~~ the hours and days of the week the child will attend the center;

~~K.~~ J. for children age six weeks to 36 months, a description of the child's eating, sleeping, toileting, and communication habits, and effective methods for comforting the child;

~~L.~~ K. documentation of any dietary or medical needs of the child;

~~M.~~ L. documentation of any individual child care program needs for the child; and

~~N.~~ M. the date of parent conferences and a summary of the information provided to the parent at the conference.

The license holder shall not disclose a child's record to any person other than the child, the child's parent or guardian, the child's legal representative, employees of the license holder, and the commissioner unless the child's parent or guardian has given written consent or as otherwise required by law.

## 9503.0140 HEALTH.

[For text of subps 1 to 15, see M.R.]

Subp. 16. **First aid kit.** The license holder must ensure that a first aid kit is available within the center. The kit must contain sterile bandages and bandaids, sterile compresses, ~~ipecac syrup,~~ scissors, an ice bag or cold pack, an oral or surface thermometer, and adhesive tape. A current first aid manual must be included. The first aid kit and manual must be accessible to the staff in the center and taken on field trips. ~~The ipecac syrup must be labeled with instructions to call and number for the local poison control center. The license holder must ensure that ipecac syrup is administered according to the instructions of the poison control center.~~

[For text of subps 17 to 22, see M.R.]

## 9555.9720 SAFETY REQUIREMENTS.

Subpart 1. **First aid kit.** The center shall have a first aid kit that contains a first aid manual, sterile bandages and bandaids, sterile compresses, ~~ipecac syrup,~~ scissors, an ice bag or cold pack, an oral or topical thermometer, liquid soap, adhesive tape, and money for phone calls. The first aid kit and manual must be accessible to the staff in the center and must be taken on field trips. ~~The ipecac syrup must be labeled with instructions to telephone the poison control center, or 911, or the participant's emergency medical care source before administering.~~

[For text of subps 2 to 11, see M.R.]

# Minnesota Environmental Quality Board

## Proposed Permanent Rules Relating to Environmental Review Program

### DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, And Notice of Hearing If 25 or More Requests For Hearing Are Received

#### Proposed Amendments to Rules Governing the Environmental Review Program, *Minnesota Rules*, chapter 4410

**Introduction.** The Environmental Quality Board intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on March 15, 2006, a public hearing will be held in the Fort Snelling History Center Auditorium, Fort Snelling, Minnesota (at the

# Proposed Rules

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junction of State Highways 5 & 55) on Thursday, March 30, 2006, one session starting at 2:00 p.m. and a second session starting at 7:00 p.m. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after March 15, 2006 and before March 30, 2006.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Gregg Downing, Environmental Quality Board, Room 300, Centennial Office Bldg., 658 Cedar Street, St. Paul, MN 55155; **telephone:** (651) 201-2476, **fax:** (651) 296-3698, and **e-mail** address: [gregg.downing@state.mn.us](mailto:gregg.downing@state.mn.us). **TTY** users may call the Department of Administration at 800-627-3529.

**Subject of Rules and Statutory Authority.** The proposed amendments would change 39 subparts of the Environmental Review program rules in chapter 4410. Most of the amendments are minor “housekeeping” or technical amendments that are intended to clarify points of ambiguity or confusion in the existing rules or to correct minor flaws in the environmental review procedures. A few of the amendments are more substantial and would require additional review procedures in limited specific circumstances; this primarily would affect the Alternative Urban Areawide Review (AUAR) process at part 4410.3610. These amendments would also change the mandatory Environmental Assessment Worksheet (EAW) thresholds for air pollution sources, wastewater systems, and historical places. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 116D.04, subs. 2a, 4a & 5a and 116D.045. A copy of the proposed rule amendments is published in the *State Register*, posted at the EQB **webpage** ([www.eqb.state.mn.us](http://www.eqb.state.mn.us)) and is attached to this notice as mailed.

**Comments.** You have until 4:30 p.m. on March 15, 2006, to submit written comment in support of or in opposition to any of the proposed rule amendments. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on March 15, 2006. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule amendments to which you object or state that you oppose the entire set of rule amendments. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format/Accommodation.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for March 30, 2006, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person indicated above to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons present have been heard. Administrative Law Judge Steve M. Mihalchick is assigned to conduct the hearing. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 554012138, **telephone:** (612) 349-2544, and **fax:** (612) 349-2665.

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may



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# Proposed Rules

respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person and is posted at the EQB's webpage at [www.eqb.state.mn.us](http://www.eqb.state.mn.us). This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from the agency.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the EQB may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After a Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and the rules are filed with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: January 27, 2006

Robert A. Schroeder  
Chair

## 4410.0200 DEFINITIONS AND ABBREVIATIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. **See repealer.**

[For text of subs 2 to 9a, see M.R.]

Subp. 9b. **Connected actions.** Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

- A. one project would directly induce the other;
- B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or
- C. neither project is justified by itself.

[For text of subs 10 to 68, see M.R.]

Subp. 69. **Protected Public waters.** "Protected Public waters" has the meaning given ~~public waters~~ in *Minnesota Statutes*, section 103G.005.

Subp. 70. **Protected Public waters wetland.** "Protected Public waters wetland" has the meaning given ~~public waters wetland~~ in *Minnesota Statutes*, section 103G.005, subdivision 15a.

[For text of subs 70a to 80, see M.R.]

Subp. 81. **Sewered area.** "Sewered area" means an area:

A. that is serviced by a wastewater treatment facility or a publicly owned or homeowner owned, operated, or supervised centralized septic system servicing the entire development; or

[For text of item B, see M.R.]

[For text of subs 82 to 91, see M.R.]

Subp. 92. **Wastewater treatment facility.** "Wastewater treatment facility" means a facility for the treatment of municipal or industrial waste water. ~~It includes on-site treatment facilities.~~

[For text of subs 92a to 96, see M.R.]

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## 4410.1000 PROJECTS REQUIRING AN EAW.

[For text of subs 1 to 4, see M.R.]

Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project that or has occurred in the RGU's circumstances, which change may affect the potential for significant adverse environmental effects that were not addressed in the existing EAW, a new EAW is required.

## 4410.1100 PETITION PROCESS.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **EAW decision.** The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the factors listed in part 4410.1700, subpart 7. The RGU shall maintain, either as a separate document or contained within the records of the RGU, a record, including specific findings of fact, of its decision on the need for an EAW.

[For text of subs 7 to 9, see M.R.]

## 4410.1200 EAW CONTENT.

The EAW shall address at least the following major categories in the form provided on the worksheet:

[For text of items A to E, see M.R.]

F. known governmental approvals, reviews, or financing required, applied for, or anticipated and the status of any applications made, including permit conditions that may have been ordered or are being considered; ~~and~~

G. if the project will be carried out by a governmental unit, a brief explanation of the need for the project and an identification of those who will benefit from the project; and

H. an assessment of the compatibility of the project with approved plans of local units of government.

## 4410.1400 PREPARATION OF AN EAW.

The EAW shall be prepared as early as practicable in the development of the proposed project. The EAW shall be prepared by the RGU or its agents.

When an EAW is to be prepared, the proposer shall submit the completed data portions of the EAW to the RGU. The RGU shall ~~promptly~~ determine whether the proposer's submittal is complete within 30 days or such other time period as agreed upon by the RGU and proposer. If the RGU determines that the submittal is incomplete, the RGU shall return the submittal to the proposer for completion of the missing data. If the RGU determines that the submittal is complete, the RGU shall notify the proposer of the acceptance of the submittal within five days. The RGU shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution. The RGU shall be responsible for the completeness and accuracy of all information.

## 4410.1500 PUBLICATION AND DISTRIBUTION OF AN EAW.

A. The RGU shall provide one copy of the EAW to the EQB staff within five days after the RGU approves the EAW. This copy shall serve as notification to the EQB staff to publish the notice of availability of the EAW in the EQB Monitor. At the time of submission of the EAW to the EQB staff, the RGU shall also submit one copy of the EAW to:

[For text of subitems (1) to (6), see M.R.]

~~(7) the Environmental Conservation Library~~ state archaeologist;

~~(8) the Indian Affairs Council;~~

~~(8) (9) the Legislative Reference Environmental Conservation Library;~~

~~(9) (10) the regional development commission and regional development library for the region of the project site;~~

~~(10) (11) any local governmental unit within which the project will take place;~~

~~(11) (12) the representative of any petitioners pursuant to part 4410.1100; and~~

~~(12) (13) any other person upon written request.~~

[For text of items B and C, see M.R.]

## 4410.1700 DECISION ON NEED FOR EIS.

[For text of subs 1 and 2, see M.R.]

Subp. 2a. **Insufficient information.** If the RGU determines that information necessary to a reasoned decision about the potential for,

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# Proposed Rules

or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the RGU shall either:

- A. make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information; or
- B. postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the RGU and proposer, in order to obtain the lacking information. If the RGU postpones the decision, it shall provide written notice of its action, including a brief description of the lacking information, within five days to the project proposer, the EQB staff, and any person who submitted substantive comments on the EAW.

Subp. 3. **Form and basis for decision.** The RGU's decision shall be either a negative declaration or a positive declaration. ~~If a positive declaration, the decision shall include the RGU's proposed scope for the EIS.~~ The RGU shall base its decision regarding the need for an EIS ~~and the proposed scope~~ on the information gathered during the EAW process and the comments received on the EAW.

[For text of subs 4 to 9, see M.R.]

## 4410.2100 EIS SCOPING PROCESS.

[For text of subs 1 to 3, see M.R.]

Subp. 4. **Scoping period for some discretionary EIS's.** If the EIS is being prepared pursuant to part 4410.2000, subpart 3, item A, the following schedule applies:

A. At least ten days but not more than 20 days after notice ~~of a positive declaration~~ is published in the *EQB Monitor*, a public meeting shall be held to review the scope of the EIS. Notice of the time, date, and place of the scoping meeting shall be published in the *EQB Monitor* within 15 days of receipt of the proposer's scoping cost payment pursuant to part 4410.6500, subpart 1, item A, and a press release shall be provided to a newspaper of general circulation in the area where the project is proposed. All meetings shall be open to the public.

B. Within 30 15 days ~~after the positive declaration is published in the EQB Monitor of the public scoping meeting~~, the RGU shall issue its final decision regarding the scope of the EIS. If the decision of the RGU must be made by a board, council, or other similar body which meets only on a periodic basis, the decision may be made at the next regularly scheduled meeting of the body following the scoping meeting but not more than 45 days after the positive declaration is published in the *EQB Monitor*.

[For text of subs 5 to 7, see M.R.]

Subp. 8. **Amendments to scoping decision.** After the scoping decision is made, the RGU shall not amend the decision without the agreement of the proposer unless substantial changes are made in the proposed project that affect the potential significant environmental effects of the project or substantial new information arises relating to the proposed project that significantly affects the potential environmental effects of the proposed project or the availability of prudent and feasible alternatives to the project. If the scoping decision is amended after publication of the EIS preparation notice, notice and a summary of the amendment shall be published in the *EQB Monitor* within 30 days of the amendment. The notice may be incorporated into the notice of the availability of the draft or final EIS.

Subp. 9. **EIS preparation notice.** An EIS preparation notice shall be published within 45 days after the ~~scoping decision is issued~~ RGU receives the proposer's cash payment pursuant to part 4410.6410, subpart 3, or 4410.6500, subpart 1, item B. The notice shall be published in the *EQB Monitor*, and a press release shall be provided to at least one newspaper of general circulation in each county where the project will occur. The notice shall contain a summary of the scoping decision.

[For text of subs 10 to 12, see M.R.]

## 4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.

Subpart 1. **Prohibitions.** If an EAW or EIS is required for a governmental action under parts 4410.0200 to 4410.6500, or if a petition for an EAW is filed under part 4410.1100 that complies with the requirements of subparts 1 and 2 of that part, a project may not be started and a final governmental decision may not be made to grant a permit, approve a project, or begin a project, until:

[For text of items A to C, see M.R.]

D. a variance is granted under subparts 3 to 7 or the action is an emergency under subpart 8.  
To start or begin a project includes taking any action within the meaning of "construction," as defined in part 4410.0200, subpart 10.

[For text of subs 2 to 9, see M.R.]

## 4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.

Subpart 1. **Applicability.** A local unit of government may use the procedures of this part instead of the procedures of parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 to review anticipated residential, commercial, warehousing, and light industrial development and associated infrastructure in a particular geographic area within its jurisdiction, if the local unit has adopted a comprehensive plan that includes at least the elements in items A to C. ~~For purposes of this part, "light industrial development, facility, or project" includes a development, facility, or project engaged in the assembly of products from components that are not produced at the site, but does not include any development, facility, or project, including an assembly development, facility, or~~ The procedures of this part may not be used to review any project; meeting the requirements for a mandatory EAW in part 4410.4300, subparts 2 to 13, 15 to 17, 18, item B or C, or

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24, or a mandatory EIS in part 4410.4400, subparts 2 to 10, 12, 13, or 25. The local unit of government is the RGU for any review conducted under this part.

[For text of items A to C, see M.R.]

Subp. 2. **Relationship to specific development projects.** The prohibitions of part 4410.3100, subparts 1 and 2, apply to all projects for which review under this part substitutes for review under parts 4410.1100 to 4410.1700 or 4410.2100 to 4410.3000. The prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation under subpart 5. Upon completion of review under this part, residential, commercial, warehousing, and light industrial development projects and associated infrastructure within the boundaries established under subpart 3 that are consistent with development assumptions established under subpart 3 are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 as long as the approval and construction of the project complies with the conditions of the plan for mitigation developed under subpart 5.

If a specific residential, commercial, warehousing, light industrial, or associated infrastructure project, that is subject to an EAW or EIS, is proposed within the boundaries of an area for which an alternative review under this part is planned but has not yet been completed, the RGU may, at its discretion, review the specific project either through the alternative areawide review procedures or through the EAW or EIS procedures. If the project is reviewed through the alternative areawide review procedures, at least one set of development assumptions used in the process must be consistent with the proposed project, and the project must incorporate the applicable mitigation measures developed through the process.

~~The prohibitions of part 4410.3100, subparts 1 to 3, apply to all projects for which review under this part substitutes for review under parts 4410.1100 to 4410.1700 or 4410.2100 to 4410.3000. These prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation under subpart 5.~~

After an order for review has been adopted under subpart 3, the RGU may not remove a project from the alternative urban areawide review process without providing opportunity for public comment about the proposed removal. The RGU must provide notice of the intended removal and the reasons for the removal in the same manner as for distribution of an EAW under part 4410.1500, except that notice is not required to be published in the *EQB Monitor*. Agencies and interested persons have 15 days from the date of receipt of the notice to file comments about the proposed removal of the project from the review. If adverse comments are received, the RGU must consider the comments and determine whether to keep the project in the review or remove it from the review based on whether the project may have the potential for significant environmental effects, taking into account the interaction of the project with other anticipated development in the alternative urban areawide review area. If no adverse comments are received within 20 working days of giving notice, the project may be removed from the review without further action by the RGU.

If a specific project will be reviewed under the procedures of this part rather than under the EAW or EIS procedures and the project itself would otherwise require preparation of an EIS under part 4410.4400 or will comprise at least 50 percent of the area covered by the alternative urban areawide review, the RGU must follow the additional procedures of subpart 5a in the review.

[For text of subs 3 and 4, see M.R.]

Subp. 5. **Procedures for review.** The procedures in items A to H must be used for review under this part.

A. The RGU shall prepare a draft environmental analysis document addressing each of the development scenarios selected under subpart 2 ~~3~~ using the standard content and format provided by the EQB under subpart 4. A draft version of the mitigation plan as described under item C must be included. The draft document must be distributed and noticed in accordance with part 4410.1500.

B. Reviewers shall have 30 days from the date of notice of availability of the draft environmental analysis in the *EQB Monitor* to submit written comments to the RGU. Reviewers that are governmental units shall be granted a 15-day extension by the RGU upon a written request for good cause. A copy of the request must be sent to the EQB.

Comments ~~must~~ may address the accuracy and completeness of the information provided in the draft analysis and draft mitigation plan, potential impacts that warrant further analysis, further information that may be required in order to secure permits for specific projects in the future, ~~and~~ mitigation measures or procedures necessary to prevent significant environmental impacts within the area when actual development occurs, and the need to analyze additional development scenarios.

Governmental units shall also state in their comments whether or not they wish to be notified by the RGU upon receipt of applications for specific development projects within the area.

[For text of item C, see M.R.]

D. The RGU shall distribute the revised environmental analysis document, including the plan for mitigation, in the same manner as the draft document and also to any persons who commented on the draft document and to the EQB staff. State agencies and the Metropolitan Council of the Twin Cities have ten days from the date of receipt of the revised document to file an objection to the document with the RGU. A copy of any letter of objection must be filed with the EQB staff. An objection may be filed only if the agency filing the objection has evidence that the revised document contains inaccurate or incomplete information relevant to the identification and mitigation of potentially significant environmental impacts, that the review has not analyzed sufficient development scenarios as required by this part, or that the proposed plan for mitigation will be inadequate to prevent potentially significant environmental impacts from occurring.

E. Unless an objection is filed in accordance with item D, the RGU shall adopt the revised environmental analysis document ~~and~~,

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including the plan for mitigation, at its first regularly scheduled meeting held 15 or more days after the distribution of the revised document. The RGU shall submit evidence of the adoption of the document and plan for mitigation to the EQB staff and all agencies that have stated that they wish to be informed of any future projects within the area as part of their comments on the draft environmental analysis document. The EQB shall publish a notice of the adoption of the ~~documents~~ document and the completion of the review process in the EQB Monitor.

Upon adoption of the environmental analysis document ~~and~~, including the plan for mitigation, residential, commercial, warehousing, and light industrial projects and associated infrastructure within the area that are consistent with the assumptions of the document and that comply with the plan for mitigation are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.2800.

F. If an objection is filed with the RGU in accordance with item D, within five days of receipt of the objection the RGU shall consult with the objecting agency about the issues raised in the objection and shall advise the EQB staff of its proposed response to the objection. At the request of the RGU, the objecting agency, the EQB staff, and any other affected agency shall meet with the RGU as soon as practicable to attempt to resolve the issues raised in the objection.

Within 30 days after receipt of the objection the RGU shall submit a written response to the objecting agency and the EQB chair. The response shall address each of the issues raised in the objection. The RGU may address an issue by either revising the environmental analysis document or plan for mitigation, or by explaining why it believes that the issue is not relevant to the identification and mitigation of potentially significant environmental impacts refuting the comment.

[For text of item G, see M.R.]

H. If the matter is referred to the EQB under item G, the EQB shall determine whether the environmental analysis document ~~and~~, including the plan for mitigation are, is adequate, conditionally adequate, or inadequate. If the EQB finds the ~~documents~~ document conditionally adequate or inadequate, the EQB shall specify the revisions necessary for adequacy. The EQB shall only find the ~~documents~~ document inadequate if it determines that ~~they contain it contains~~ it contains inaccurate or incomplete information necessary to the identification and mitigation of potentially significant environmental impacts, that the review has not analyzed sufficient development scenarios as required by this part, or that the proposed plan for mitigation will be inadequate to prevent the occurrence of potentially significant environmental impacts.

If the EQB finds the ~~documents~~ document adequate or conditionally adequate, the RGU shall adopt the ~~documents~~ document under item E. If the ~~documents were~~ document is found conditionally adequate by the EQB, the RGU shall first revise the ~~documents~~ document as directed by the EQB. If the EQB finds the ~~documents~~ document inadequate, the RGU has 30 days to revise the ~~documents~~ document and circulate ~~them~~ it for review in accordance with items D to H.

**Subp. 5a. Additional procedures required when certain specific projects are reviewed.** The procedures in this subpart must be followed in addition to those in subpart 5 if a specific project will be reviewed under the procedures of this part rather than under the EAW or EIS procedures and the project itself would otherwise require preparation of an EIS under part 4410.4400 or will comprise at least 50 percent of the ground area covered by the alternative urban areawide review.

A. Prior to the approval of the order for review under subpart 3, the RGU must conduct a public comment process to assist it in identifying appropriate development scenarios and relevant issues to be analyzed in the review. The RGU shall prepare a draft order for review and distribute it and provide notice of its availability in the same manner as for an EAW under part 4410.1500. The draft order for review must include the information specified in subpart 3.

B. Government units and interested persons shall participate in the public comment process according to part 4410.1600, except the comments shall address suggested additional development scenarios and relevant issues to be analyzed. Comments may suggest additional development scenarios, including development at sites outside of the proposed alternative urban areawide review boundary, if the additional scenarios would likely minimize or avoid potentially significant environmental impacts that may result from development of the scenarios based on or incorporating the plans for the specific project or projects that require use of the procedures of this subpart. The comments must provide reasons why a suggested additional scenario is potentially environmentally superior.

C. The RGU must consider all timely and substantive comments received when finalizing the order for review. The RGU shall apply the criteria for excluding an alternative from analysis found in part 4410.2300, item G, in determining if a suggested alternative scenario should be included or excluded. If the RGU excludes a suggested additional development scenario, it must document its reasons for excluding the scenario in a written record of decision.

D. The RGU shall adopt the final order for review within 15 days of the end of the comment period. A copy of the order and the RGU's record of decision for the order's adoption must be sent within ten days of the decision to the EQB and to anyone who submitted timely and substantive comments.

[For text of subs 6 to 8, see M.R.]

## 4410.3800 GENERIC EIS.

[For text of subs 1 to 4, see M.R.]

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Subp. 5. **Criteria.** In determining the need for a generic EIS, the EQB shall consider:

[For text of items A to G, see M.R.]

H. the regional and statewide significance of the impacts and the degree to which they can be addressed on a project-by-project basis; and  
I. the degree to which governmental policies affect the number or location of such projects or the potential for significant environmental effects;

J. the degree to which the cost of basic information ought to be borne by the public rather than individual project proposers;

K. the need to explore issues raised by a type of project that go beyond the scope of review of individual projects; and

L. the need to understand the long-term past, present, and future effects of a type of action upon the economy, environment, and way of life of the residents of the state.

[For text of subs 6 and 7, see M.R.]

Subp. 8. **Relationship to project-specific review.** Preparation of a generic EIS does not exempt specific activities from project-specific environmental review. ~~Project-specific environmental review shall use information in the generic EIS by tiering and shall reflect the recommendations contained in the generic EIS if the EQB determines that the generic EIS remains adequate at the time the specific project is subject to review.~~

[For text of subp 9, see M.R.]

## 4410.4300 MANDATORY EAW CATEGORIES.

[For text of subs 1 to 14, see M.R.]

Subp. 15. **Air pollution.** ~~Items A and B designate the RGU for the type of project listed:~~

A. ~~For construction of a stationary source facility that generates ~~100~~ 250 tons or more per year or modification of a stationary source facility that increases generation by ~~100~~ 250 tons or more per year of any single air pollutant after installation of air pollution control equipment, the PCA shall be the RGU.~~

B. ~~For construction of a new parking facility for 2,000 or more vehicles, the PCA shall be the RGU, except that this category does not apply to any parking facility which is part of a project reviewed pursuant to part 4410.4300, subpart 14, 19, 32, or 34, or part 4410.4400, subpart 11, 14, 21, or 22.~~

[For text of subs 16 and 17, see M.R.]

Subp. 18. **Wastewater systems.** Items A to C designate the RGU for the type of project listed:

A. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with a capacity less than 20,000,000 gallons per day or for expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with the capacity of 20,000,000 gallons or greater, the PCA shall be the RGU.

B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least ~~50,000~~ 200,000 gallons per day of its average wet weather design flow capacity, or construction of a new municipal or domestic wastewater treatment facility with an average wet weather design flow capacity of ~~50,000~~ 200,000 gallons per day or more, the PCA shall be the RGU.

[For text of item C, see M.R.]

Subp. 19. **Residential development.** An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, and that is zoned for residential development or is identified for residential development by an applicable comprehensive plan or annexation agreement, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.1000, subpart 4.

If a project consists of mixed unattached and attached units, an EAW must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one.

The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

[For text of items A to D, see M.R.]

[For text of subs 20 to 26, see M.R.]

Subp. 27. **Wetlands and protected public waters.** Items A and B designate the RGU for the type of project listed:

A. For projects that will change or diminish the course, current, or crosssection of one acre or more of any protected public water or

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# Proposed Rules

~~protected public waters~~ wetland except for those to be drained without a permit pursuant to *Minnesota Statutes*, chapter 103G, the local government unit shall be the RGU.

B. For projects that will change or diminish the course, current, or crosssection of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more, excluding ~~protected public waters~~ wetlands, if any part of the wetland is within a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government unit shall be the RGU.

[For text of subps 28 to 30, see M.R.]

Subp. 31. **Historical places.** For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, *United States Code*, title 16, section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to *United States Code*, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to *Code of Federal Regulations*, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as “noncontributing” in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.

[For text of subp 32, see M.R.]

Subp. 33. **Communications towers.** For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any ~~protected public water~~ or ~~protected public waters~~ wetland or within two miles of the Mississippi, Minnesota, Red, or St. Croix rivers or Lake Superior, the local governmental unit is the RGU.

[For text of subps 34 to 37, see M.R.]

## 4410.4400 MANDATORY EIS CATEGORIES.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Fuel conversion facilities.** Items A and B designate the RGU for the type of project listed:

[For text of item A, see M.R.]

B. For construction or expansion of a facility for the production of alcohol fuels which would have or would increase its capacity by 50,000,000 or more gallons per year of alcohol produced if the facility will be in the seven-county Twin Cities metropolitan area or by 125,000,000 or more gallons per year of alcohol produced if the facility will be outside the seven-county Twin Cities metropolitan area, the PCA shall be the RGU.

[For text of subps 6 to 13, see M.R.]

Subp. 14. **Residential development.** An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, and that is zoned for residential development or is identified for residential development by an applicable comprehensive plan or annexation agreement, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance, or if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.2000, subpart 4.

The RGU may review an initial stage of the project, that may not exceed ten percent of the applicable EIS threshold, by means of the procedures of parts 4410.1200 to 4410.1700 instead of the procedures of parts 4410.2000 to 4410.2800. If the RGU determines that this stage requires preparation of an EIS under part 4410.1700, it may be reviewed through a separate EIS or through an EIS that also covers later stages of the project.

If a project consists of mixed unattached and attached units, an EIS must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one.

The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

[For text of items A to D, see M.R.]

[For text of subps 15 to 19, see M.R.]

Subp. 20. **Wetlands and ~~protected public waters~~.** For projects that will eliminate a ~~protected public water~~ or ~~protected public waters~~ wetland, the local government unit shall be the RGU.

[For text of subps 21 to 25, see M.R.]

# Proposed Rules

## 4410.4600 EXEMPTIONS.

[For text of subpart 1, see M.R.]

Subp. 2. **Standard exemptions.** The following projects are standard exemptions:

[For text of items A to C, see M.R.]

D. projects for which a substantial portion of the project has been completed and an EIS would not influence remaining ~~implementation~~ or construction; and

E. projects for which environmental review has already been ~~initiated under the prior rules~~ completed or for which environmental review is being conducted pursuant to part 4410.3600 or 4410.3700.

[For text of subs 3 to 18, see M.R.]

Subp. 19. **Animal feedlots.** The activities in items A to ~~E~~ D are exempt.

A. Construction of an animal feedlot facility with a capacity of less than 1,000 animal units or the expansion of an existing animal feedlot facility to a total cumulative capacity of less than 1,000 animal units, if all of the following apply:

(1) the feedlot is not in an environmentally sensitive location listed in part 4410.4300, subpart 29, item B;

(2) the application for the animal feedlot permit includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with PCA feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the PCA or county issuing a feedlot permit for the facility, unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted.

B. The construction of an animal feedlot facility of less than 300 animal units or the expansion of an existing facility by less than 100 animal units, no part of either of which is located within a shoreland area; delineated flood plain; state or federally designated wild and scenic rivers district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; an area within a drinking water supply management area designated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.

~~B. C.~~ C. The construction or expansion of an animal feedlot facility with a resulting capacity of less than 50 animal units regardless of location.

~~C. D.~~ D. The modification without expansion of capacity of any feedlot of no more than 300 animal units if the modification is necessary to secure a Minnesota feedlot permit.

[For text of subs 20 to 27, see M.R.]

## 4410.5200 EQB MONITOR PUBLICATION REQUIREMENTS.

Subpart 1. **Required notices.** Governmental units are required to publish notice of the items listed in items A to ~~P~~ R in the EQB Monitor, except that this part constitutes a request and not a requirement with respect to federal agencies.

A. When a project has been noticed pursuant to item D, separate notice of individual permits required by that project need not be made unless changes in the project are proposed that will involve new and potentially significant environmental effects not considered previously. No decision granting a permit application for which notice is required to be published by this part shall be effective until 30 days following publication of the notice.

[For text of subitems (1) to (4), see M.R.]

~~(5) For special local need registration for pesticides, Minnesota Statutes, section 18A.23, and parts 1505.0870 to 1505.0930, the MDA is the permitting authority.~~

[For text of items B to O, see M.R.]

P. Notice of the availability of a draft alternative urban areawide review document.

Q. Notice of the adoption of a final alternative urban areawide review document.

R. Notice of other actions that the EQB may specify by resolution.

[For text of subs 2 and 3, see M.R.]

## 4410.5600 COST AND DISTRIBUTION.

[For text of subpart 1, see M.R.]

Subp. 2. **Distribution.** The EQB may ~~further provide at least one copy to the Print Communications Division for the mailing of the EQB Monitor to any person, governmental unit, or organization if so requested. The EQB may assess reasonable costs to the requesting party. Ten copies of each issue of the EQB Monitor, however, shall be provided without cost to the Legislative Reference Library, ten copies to the State Law Library, and at least one copy to designated EQB depositories~~ Monitor may be published by electronic means, including by posting at the EQB Internet Web site and by electronic mail to persons who have registered with the EQB to receive the EQB Monitor.



## **4410.6100 DETERMINING EIS ASSESSED COST.**

Subpart 1. **Proposer and RGU agreement.** Within 30 days after the ~~EIS preparation notice~~ RGU's scoping decision has been ~~published~~ issued, the RGU shall submit to the EQB ~~proposer a written draft cost agreement signed by the proposer and the RGU.~~ The agreement shall include the EIS estimated cost and a brief description of the tasks and the cost of each task to be performed by each party in preparing and distributing the EIS. Those items identified in part 4410.6200 may be used as a guideline in determining the EIS estimated cost. ~~If an agreement cannot be reached, the RGU or~~ The proposer shall so notify the EQB may request changes in the cost agreement. If, within 30 days after the proposer receives the draft cost agreement, the RGU and proposer have not signed a cost agreement, either party may refer the matter to the EQB according to part 4410.6410. If the RGU and proposer sign the cost agreement, the RGU shall submit a copy to the EQB.

[For text of subps 4 and 5, see M.R.]

## **4410.6200 DETERMINING EIS COST.**

Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing and distributing an EIS, the following items shall be included:

- A. the cost of the RGU's staff time including direct salary and fringe benefit costs, unless the RGU elects to waive these costs;

[For text of items B and C, see M.R.]

- D. indirect costs of the RGU not to exceed the RGU's normal operating overhead rate, unless the RGU elects to waive these costs;

[For text of items E and F, see M.R.]

[For text of subps 2 to 5, see M.R.]

## **4410.6500 PAYMENT OF EIS COST.**

Subpart 1. **Schedule of payments.** The proposer shall make all cash payments to the RGU according to the following schedule:

A. The proposer shall pay the RGU for the full cost estimated by the RGU to be necessary for the scoping of the EIS not later than the date of submission by the proposer of the completed data portions of the scoping EAW or within five days of issuance of a positive declaration. The RGU shall not proceed with the scoping process until this payment is made. Upon issuance of the scoping decision, the RGU shall provide the proposer with a written accounting of the scoping expenditures. If the payment made by the proposer exceeds the expenditures, the balance shall be credited against the cash payments required from the proposer for preparation of the draft EIS. If the RGU's reasonable expenditures for scoping exceed the cash payment received, the proposer shall pay the balance before the RGU commences preparation of the draft EIS.

[For text of items B to D, see M.R.]

Subp. 6. **Prohibition on state agency permits until notice of final payment.** Upon receipt of final payment from the proposer, the RGU shall promptly notify ~~the EQB of receipt of final payment, unless the EIS cost is in dispute under part 4410.6410. Upon notice of receipt of the final payment by the proposer, the EQB shall notify each state agency having a possible governmental permit interest in the project that the final payment has been received.~~

Other laws notwithstanding, a state agency shall not issue any governmental permits for the construction or operation of a project for which an EIS is prepared until the required cash payments of the EIS assessed cost for that project or that portion of a related actions EIS have been paid in full.

**REPEALER.** *Minnesota Rules*, part 4410.0200, subpart 1a, is repealed.

## Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* Sections 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Department of Labor and Industry

### Adopted Exempt Permanent Rules Relating to Occupational Safety and Health; Adoption of Federal Standards by Reference

The rules proposed and published at *State Register*, Volume 30, Number 23, pages 595-596, December 5, 2005 (30 SR 595), are adopted as proposed.

## Executive Orders

The governor has the authority to issue written statements or orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* § 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

## Office of the Governor

### Executive Order #06-02: Providing for Review and Correction of State Impediments to Veterans Employment and Education

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and applicable laws do hereby issue this executive order:

**WHEREAS**, there are approximately 440,000 veterans of the Armed Forces residing in Minnesota and over 25,000 Minnesotans are presently serving in the United States Armed Forces, including regular military forces as well as the National Guard and Reserves; and

**WHEREAS**, as part of their military training, the majority of these servicemen and women receive extensive skills training in a broad

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## Executive Orders

range of technical areas that have direct civilian occupational counterparts and for which state licensure and academic degrees or certificates are required for these civilian occupations; and

**WHEREAS**, in too many cases, Minnesota's licensure and certification processes do not appropriately recognize the experience and training provided through military service and, thereby act as an impediment or barrier to the integration of highly skilled veterans wanting to enter or reenter Minnesota's workforce and similarly, institutions of higher education sometimes do not appropriately provide academic credit for military courses and experience; and

**WHEREAS**, the integration of these highly qualified veterans into the workforce is delayed when they are forced to repeat civilian-equivalent course work and training, or in some cases, these veterans choose to relocate to states that are regarded as more *veteran-friendly* than Minnesota; and

**WHEREAS**, loss of this talented, disciplined, and highly trained group of veterans from Minnesota's workforce is counterproductive, unnecessary, and unacceptable.

**NOW, THEREFORE**, I hereby order that:

1. Minnesota State Colleges and University System and all state licensing and certification boards must examine their current policies, rules, and procedures, as well as governing statutes, to identify any impediments and barriers to veterans seeking employment and education.

a. These examinations must occur within 60 days following the date of this order. Areas of review are to include, but are not limited to, occupational licensure, certification, and higher education and training programs.

b. Institutions of higher education are to specifically examine their policies relating to providing college credit for formal military training and make every effort to appropriately recognize and provide credit to veterans for their prior military training and experience.

c. The University of Minnesota and private colleges and universities are strongly encouraged to review their policies, procedures and rules to identify and remove barriers to veterans' employment and education including policies relating to providing credit for prior military training and experience.

2. To the extent permitted by law, all state departments and agencies must examine their current policies, rules, and procedures, as well as governing statutes, to identify any impediments and barriers to veterans seeking access to agency benefits or services.

3. Each state department and agency must consider needed revisions to any policies, rules, and procedures that constitute a barrier or impediment to veterans seeking employment and education in Minnesota. Agencies should forward any proposed statutory changes necessary to achieve these goals to the Governor's Office for coordination.

4. State departments and agencies must identify, describe and provide recommendations regarding any impediments and barriers to veterans' employment, education and access to agency services and benefits that lie beyond the control of state government.

5. All agencies must report to the Governor's Military and Veterans' Support Cabinet within 60 days following the date of this order on the agency's progress in response to this order. The Commissioner for the Department of Employment and Economic Development will be the lead cabinet member coordinating these reports and bringing the information to the cabinet. The Commissioner will assign staff to assist and clarify, as needed.

6. All agencies must provide updates by June 30 and December 31 each year to the Governor's Military and Veterans' Support Cabinet on the status and progress made in response to this order.

Pursuant to *Minnesota Statutes* 2004, section 4.035, subdivision 2, this Executive Order will be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and will remain in effect in accordance with *Minnesota Statutes* 2004, section 4.035, subdivision 3.

**IN TESTIMONY WHEREOF**, I have set my hand this 7th day of February 2006.

Signed: **TIM PAWLENTY**  
Governor

Filed According to Law:

Signed: **MARY KIFFMEYER**  
Secretary of State

# Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Department of Education Early Learning Services Division Notice of Even Start Family Literacy Funds Available

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Education (MDE) is making available federal funds to develop and operate Even Start Family Literacy programs. Authorized in the Elementary and Secondary Education Act (ESEA) as amended in 1988, Even Start was most recently reauthorized and amended by the No Child Left Behind Act of 2001 (P.L. 107-110; NCLB) as Title I, Part B Subpart 3. Limited federal funds have been appropriated for the 2006-2007 school year.

The purpose of Even Start is to help break the cycle of poverty and illiteracy. The term “family literacy services” is defined in federal statutes as services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following instructional activities:

1. interactive literacy activities between parents and their children;
2. training for parents regarding how to be the primary teacher for their children and full partners in the education of their children;
3. parent literacy training that leads to economic self-sufficiency; and
4. age-appropriate education to prepare children for success in school and life experiences.

Programs must be cooperative projects that build on high-quality existing community resources; use instructional programs based on available scientifically based reading research; and promote the academic achievement of children and adults. Federal requirements including fifteen program elements are identified in statute and guidance that are available at the following internet links:

<http://www.ed.gov/policy/elsec/leg/esea02/pg6.html>

<http://www.ed.gov/policy/elsec/guid/evenstartguidance02.doc>

**Eligible applicants** must be in a partnership between

- a. one or more local education agency, **and**
- b. one or more community-based nonprofit organization, institution of higher education, or public agency other than and independent of a local education agency.

The fiscal agent may be any of the partners. All partners share responsibility for administering the program.

**Eligible participants** are children at birth through age seven and their parents or guardians who are either

- eligible for adult education and literacy activities under the Adult Education and Family Literacy Act;
- within the State’s compulsory school attendance age range; or
- attending secondary school.

At least one eligible parent or guardian and one eligible child must participate to ensure the family receives all four core components. Projects must provide services for at least a three-year age range of children.

### **Project duration and funding:**

Grants are awarded for a four-year cycle. Continuing eligibility for federal funds in the second, third and fourth year of each cycle is contingent on the availability of funds and an annual application that demonstrates sufficient progress toward meeting program objectives and state performance indicators. At the end of the four-year cycle, the project may compete for an additional four-year period. The federal statute requires the state to first award funds to eligible continuation grants before determining the amount of funds available to award new four-year grants. The annual funding period is from July 1 through June 30.

The maximum federal share of the total project cost in any year is \$200,000. The minimum amount of the federal share is \$75,000 for projects in their first through eighth year of operation and \$52,500 for recipients in their ninth and succeeding years. The project must secure an annually increasing local share of the total project cost obtained through cash or in-kind contributions, fairly evaluated, from any source including federal funds.

Grants will be awarded to a balance of urban and rural areas. The grant review process will give priority to applications that target federally designated empowerment and enterprise communities and areas with a high percentage or large number of children and families in need of Even Start services, as indicated by high levels of poverty, illiteracy, unemployment, limited English proficiency, or other similar need-related factors.

### To apply for funds:

The complete Request for Proposals (RFP) and required application forms will be available on or about March 3, 2006 on the MDE website, <http://education.state.mn.us>. Complete applications must be received by April 17, 2006.

An informational workshop is scheduled for March 6, 2006 from 1:00 – 4:00 in room CC-17 of the MDE Conference Center B in Roseville, MN. This workshop will provide the opportunity for applicants to receive additional information and technical assistance from Department of Education staff. Directions to the MDE Conference Center are available on the MDE website.

The Minnesota Department of Education reserves the right to restrict grant awards to programs in their second year of a four-year grant cycle and cancel the availability of funds for grant applications to start a new four-year cycle. Under such circumstances, the informational workshop on March 6 will be cancelled.

For more information, please contact Wayne Kuklinski at [wayne.kuklinski@state.mn.us](mailto:wayne.kuklinski@state.mn.us) or (651) 582-8385.

Please feel free to distribute this information.

## Minnesota Housing Finance Agency Notice of Public Hearing on 2007 Housing Tax Credit Allocation Plan

The Minnesota Housing Finance Agency (MHFA) will hold a public hearing pursuant to Section 42 of the Internal Revenue Code of 1986, as amended. The public hearing will be held at the time and place listed below:

Thursday March 2, 2006  
1:00 p.m. – 3:00 p.m. – State Street Conference Room, Ground Floor  
Minnesota Housing Finance Agency  
400 Sibley Street, Suite 300  
St. Paul, MN

The Omnibus Budget Reconciliation Act of 1989 (OBRA) requires that Housing Tax Credit Allocating Agencies develop a plan for allocating tax credits within their jurisdiction, setting forth criteria to determine priorities for selection of developments to receive tax credits. The OBRA also requires Tax Credit Agencies to hold a public hearing to receive public comment on the Allocation Plan.

The above public hearing is for the 2007 Allocation Plan developed by MHFA, in cooperation with local government representatives, for use within the Tax Credit Allocation jurisdiction of the MHFA. Other Tax Credit Suballocating Agencies in Minnesota will be holding public hearings for their areas of jurisdiction. Currently, the following cities and counties are eligible to be Suballocating Agencies in Minnesota: Duluth, St. Cloud, Rochester, Minneapolis, St. Paul, Washington County and Dakota County.

All persons interested will be given an opportunity to express their views. In order to more effectively plan for the conduct of the hearings, persons desiring to speak at the hearing must so request in writing at least 24 hours before the hearing. Oral remarks by any person will be limited to 10 minutes. Written comments may also be submitted to the undersigned, and will be considered at the hearing.

Note that this public hearing is not a workshop or training session, but is intended to solicit the comments of the public.

Copies of summaries of the proposed changes to the Housing Tax Credit Procedural Manual and Qualified Allocation Plan are available at the address listed below, by written or phone request or by checking the MHFA web site.

Minnesota Housing Finance Agency  
Multifamily Underwriting  
Housing Tax Credit Program  
400 Sibley Street, Suite 300  
St. Paul, MN 55101-1998  
**Telephone:** (651) 296-4451  
**Website:** [www.mhfa.state.mn.us](http://www.mhfa.state.mn.us)

# Official Notices

## Department of Human Services

### Health Care Purchasing and Delivery Systems Division

#### Health Care Administration

## Public Notice of Maximum Allowable Costs of Medical Assistance Outpatient Prescribed Drugs

**NOTICE IS HEREBY GIVEN** to recipients, providers of services, and to the public of additions to the state Medical Assistance maximum allowable cost (state MAC) list for certain outpatient prescribed drugs.

At least once each calendar year, the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services, publishes a federal upper limit (FUL) payment schedule for many commonly prescribed multiple-source drugs. The federal upper limit is set at a rate equal to 150 percent of the published price for the least costly therapeutic equivalent that can be purchased by pharmacists. This FUL payment schedule constitutes the federal MAC list. For many multiple-source drugs that are not on the federal MAC list, the Department establishes a state MAC list. Additionally, the Department imposes a state MAC for many multiple-source drugs that are on the federal MAC list, as long as the savings are at least as much as the savings would be using the federal MAC list.

The Department requires Medical Assistance pharmacy providers to submit their usual and customary costs. Pharmacy providers are reimbursed at the lower of: 1) the federal or state MAC, plus a dispensing fee; 2) the submitted usual and customary charge to the general public; or 3) a discount off of average wholesale price, plus a dispensing fee.

On January 13, 2003 at 27 SR 1117-1130, the Department published the MAC list, listing the federal and state MACs. Additional changes to the state MAC list were published on February 18, 2003 (27 SR 1331-1334), March 3, 2003 (27 SR 1386-1393), April 21, 2003 (27 SR 1583-1584), August 4, 2003 (28 SR 102-103), October 13, 2003 (28 SR 505-506), October 20, 2003 (28 SR 528-529), December 15, 2003 (28 SR 784-785), January 26, 2004 (28 SR 934-935), March 8, 2004 (28 SR 1089-1090), April 5, 2004 (28 SR 1232), April 19, 2004 (28 SR 1313-1314), May 3, 2004 (28 SR 1367-1368), August 9, 2004 (29 SR 173), August 23, 2004 (29 SR 224-225), November 8, 2004 (29 SR 510), November 15, 2004 (29 SR 534-535), February 7, 2005 (29 SR 923-924), February 14, 2005 (29 SR 951-952), March 7, 2005 (29 SR 1038-1039), April 11, 2005 (29 SR 1174-1175), June 27, 2005 (29 SR 1607), July 18, 2005 (30 SR 49-50), August 15, 2005 (30 SR 147), August 29, 2005 (30 SR 226-227), October 17, 2005 (30 SR 402-403), November 14, 2005 (30 SR 511-512), December 12, 2005 (30 SR 617-618), January 9, 2006 (30 SR 770-771), and January 30, 2006 (30 SR 833).

Effective February 14, 2006 the Department will add the following outpatient prescribed drugs to the state MAC list:

<u>GCN</u>	<u>Drug Name</u>	<u>Strength</u>	<u>MAC Price</u>
48794	AZITHROMYCIN	600MG	13.89
92219	ZONISAMIDE	100MG	1.69
20831	ZONISAMIDE	25MG	.44
20833	ZONISAMIDE	50MG	.83
12529	MARTAZAPINE	15MG	.77
12531	MIRTAZAPINE	30MG	1.75
13041	MIRTAZAPINE	45MG	1.80

These additions are made to bring Medical Assistance reimbursement to pharmacists more closely in line with the actual acquisition cost of the drugs listed above. The Department estimates that there will be a state savings of \$166,500 for State Fiscal Year 2006 (July 1, 2005 through June 30, 2006).

This notice is published pursuant to *Code of Federal Regulations*, Title 42, section 447.205, which requires publication of a notice when there is a rate change in the methods and standards for setting payment rates for Medical Assistance services.

Written comments and requests for information may be sent to Kristin Young, Pharmacy and Program Manager, Health Care Purchasing and Delivery Systems Division, Health Care Administration, Minnesota Department of Human Services, P.O. Box 64984, St. Paul, Minnesota 55164-0984; **phone:** (651) 431-2504 or **email:** [kristen.c.young@state.mn.us](mailto:kristen.c.young@state.mn.us)

**Department of Labor and Industry  
Labor Standards Unit****Notice of Correction to Commercial Prevailing Wage Rates in Douglas County**

A **correction** has been made to the Commercial Prevailing Wage Rates certified 12/27/05, for **Labor Code 407**, Electricians, in **Douglas County**.

Copies with the correction of the certified wage rates for these Counties may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091, or accessing our web site at [www.doli.state.mn.us](http://www.doli.state.mn.us). Charges for the cost of copying and mailing are \$.25 per page. Make check or money order payable to the State of Minnesota.

M. Scott Brener  
Commissioner

**Metropolitan Airports Commission****Notice of Adoption of the Amended Minneapolis-St. Paul International Airport  
Ground Rental Rates Ordinance**

Please take notice that on the 17 of January 2006, at a regular meeting, the Metropolitan Airports Commission adopted Ordinance No. 103 Ground Rental Rates Ordinance:

**Ordinance No. 103:**

An Ordinance to promote and conserve the public safety, health, peace, convenience and welfare; to provide for the amendment of ground rental rates, as provided by *Minnesota Statutes* § 473.651; for property located at the Minneapolis-St. Paul International Airport, all of which is property owned by or under the supervision and control of the Metropolitan Airports Commission; prescribing the penalty for violation thereof; and to repeal Commission Ordinance No. 83.

Copies of Ordinance No. 103 as adopted will be on file with the Secretary of State and may be obtained electronically through accessing the Metropolitan Airports Commission website at <http://www.mspairport.com/mac/organization/Bylaws.aspx> or by contacting the offices of the Metropolitan Airports Commission.

Jeffrey W. Hamiel  
Executive Director  
Metropolitan Airports Commission  
6040 - 28th Avenue South  
Minneapolis, MN 55450

**Minnesota Department of Public Safety****ARMER/911 Division****REQUEST FOR COMMENTS on Possible Amendment to Rules Governing the  
Statewide 911 Emergency Telephone System, *Minnesota Rules*, parts 1215.0200,  
1215.0800, and 1215.0900**

**Subject of Rules.** The Minnesota Department of Public Safety, ARMER/911 Division, requests comments on its possible amendment to rules governing the 911 emergency telephone system. The Department is considering the following amendments to manage the number of default routing trunks:

**Minnesota Rule Parts 1215.0200 Definitions.** Adding definitions for No Record Found (NRF), Automatic Location Identification (ALI), Automatic Location Identification Database, and Default Routing.

**Minnesota Rule Parts 1215.0800 Design Standards.** Providing for the coordination of trunked circuits needed to provide 911 service and determining default answering points for the routing of 911 calls where a “no record found” condition occurs.

**Minnesota Rule Parts 1215.0900 Operational Requirements.** Establishing minimum accuracy standards for customer location information provided by telecommunication service providers to the ALI database, adding an ALI data base reporting requirement for the 911 service providers, and requires answering points to establish procedures for “no record found” 911 calls.

# Official Notices

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**Persons Affected.** Persons affected by the proposed amendment to chapter 1215 may include incumbent local exchange carriers (ILEC), competitive local exchange carriers (CLEC), 911 system integrators, 911 service providers, Public Safety Answering Points (PSAP), and local and regional 911 boards.

**Statutory Authority.** *Minnesota Statutes*, section 403.07, subdivision 1 authorize the Department to adopt rules for the development of 911 systems in the state.

**Public Comment.** Interested persons or groups may submit comments or information on these possible rules in writing until further notice is published in the *State Register* that the Department intends to adopt or to withdraw the rules.

**Rules Drafts.** The Department does not anticipate that a draft of the rules amendments will be available before the publication of the proposed rules.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these possible rules should be directed to: Mary Kay Frisch, Department of Public Safety Statewide 911 Program, 444 Cedar Street, Suite 137, St. Paul, Minnesota 55101-5137, (651) 296-4032, **Fax** (651) 296-2665, or **e-mail** to [marykay.frisch@state.mn.us](mailto:marykay.frisch@state.mn.us). **TTY** users may call the Department at (651) 282-6555.

**Alternative Format.** Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submitted comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Michael Campion, Commissioner  
Department of Public Safety

## Minnesota Department of Revenue Notice of Fourth Meeting of the Utility Rules Advisory Committee

The Utility Rules Advisory Committee's fourth meeting is scheduled on Thursday, February 16, from 9:00 AM to 4:00 PM at the Minnesota Department of Revenue. For further information contact:

Harriet Sims  
Appeals and Legal Services Division  
Minnesota Department of Revenue  
600 North Robert Street  
St. Paul Minnesota, 55146-2220  
(651) 556-4085  
**Fax:** (651) 296-8229  
**E-mail:** [harriet.sims@state.mn.us](mailto:harriet.sims@state.mn.us)  
**TTY** users may call the Department at Minnesota Relay 711

Information concerning the rules is posted on the Department of Revenue's website:

[http://www.taxes.state.mn.us/taxes/other\\_supporting\\_content/rule\\_report.shtml](http://www.taxes.state.mn.us/taxes/other_supporting_content/rule_report.shtml).



## State Contracts

**Informal Solicitations:** Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site at [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us) for informal solicitation announcements.

**Formal Solicitations:** Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements

## Department of Administration Business Bonanza

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## Colleges and Universities, Minnesota State (MnSCU) Saint Cloud Technical College

### Advertisement for Bids for Six ALS Cardiac Monitor Defibrillators

**NOTICE IS HEREBY GIVEN** that sealed bids for six (6) ALS Cardiac Monitor Defibrillators will be received by Saint Cloud Technical College. Sealed bids must be received by Beth Althaus, Business Office, St. Cloud Technical College, 1540 Northway Drive, St. Cloud, MN 56303 by 1:00 p.m. on Tuesday, February, 28 2006. Late bids will not be considered. Bid specifications may be obtained from Beth Althaus, St. Cloud Technical College, 1540 Northway Drive, St. Cloud, MN 56303 or by phone 320-308-5512.

This is a request for bids, not a purchase order.

Saint Cloud Technical College reserves the right to reject any or all bids and to waive any irregularities or informalities in bids received.

## Colleges and Universities, Minnesota State (MnSCU) Winona State University

### Request for Bids for Classroom Fixed Tables

Notice is hereby given that Winona State University is seeking bids for classroom fixed tables in Pasteur Hall.

Bid specifications will be available February 13, 2006 by contacting the Purchasing Department at PO Box 5838, 205 Somsen Hall, Winona, MN 55987, **e-mail:** [sschmitt@winona.edu](mailto:sschmitt@winona.edu) or by **calling:** (507) 457-5067.

Sealed bids must be received by Sandra Schmitt at PO Box 5838, or at 175 W. Mark St., Somsen 205G, Business Office, Winona State University, Winona, MN 55987 by 3:00 PM Wednesday, March 1, 2006.

Winona State University reserves the right to reject any or all bids and to waive any irregularities or informalities in bids received.

# State Contracts

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## Department of Education

### Notice of Request for Proposal for a Critical Evaluation of the Minnesota Voluntary Certification Program

The Department of Education is soliciting proposals from qualified vendors to conduct a critical evaluation of the Minnesota Voluntary Certification Program for Library Employees. Created in 1997, the Voluntary Certification Program is intended to improve library service by encouraging library employees to acquire, maintain, and develop knowledge and skills. This critical evaluation will analyze the impact the program has had on Minnesota libraries, ongoing program viability, and establish criteria for improvements and/or change.

Vendors involved in the implementation phase, planning and/or representatives of the Continuing Library, Information, Media Education Committee (CLIME) are not eligible for the evaluation contract.

The Department has estimated the cost of this project should not exceed \$50,000. The anticipated project period is July 1, 2006 through December 30, 2006.

For a complete copy of the Request for Proposal, please contact:

James V. Wroblewski  
State Library Services and School Technology,  
Department of Education  
1500 Highway 36 W, Roseville, MN 55113  
**Phone:** (651) 582-8805  
**Fax:** (651) 582-8752

Proposals are due no later than 3:00 P.M. Central Time on Monday, March 20, 2006. Late proposals will not be considered. Fax or E-mail proposals will not be considered.

This request does not obligate the State to award a contract or complete the work contemplated in this notice. The State reserves the right to cancel this solicitation if it is considered to be in its best interest. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Department of Human Services

### Notice of Request for Proposals: Managed Transportation for the Purchase of Certain Non-Emergency Transportation Services for Medical Assistance/General Assistance/MinnesotaCare Recipients

The Department of Human Services requests proposals from entities for: (1) the provision of all non-emergency Access Transportation Services for eligible Minnesota Health Care Program clients residing in the seven county metro area effective July 1, 2006 with expansion to Special Transportation Services at the discretion of the STATE; (2) the provision of level-of-need assessments for non-emergency transportation for eligible Minnesota Health Care Program clients residing in the seven county metro area, and performing level-of-need assessments statewide for Special Transportation Services; and (3) the authorization of rides over 30 miles one-way in the metro area. County or regional expansion beyond the 7 county metro area will be at the discretion of the STATE.

Detailed specifications are contained in the Request for Proposal. Interested parties may download the Request for Proposals at the DHS website, [www.dhs.state.mn.us](http://www.dhs.state.mn.us) or may obtain a paper copy by contacting Marne Welsh, (651) 431-2502.

There will be a pre-proposal conference to be held Friday, March 10, 2006 at the Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155, Rooms 1A/1B from 9:00 am to 12:00 pm. The due date for proposal submission is April 13, 2006, 4:15 p.m., Central Daylight Time.

## Department of Human Services

### Children and Family Services

### Notice of Request for Proposal to Conduct Analysis of Child Care Provider Market Rate Survey Data in Minnesota

The Department of Human Services is requesting proposals from qualified parties for the purpose of conducting an analysis of data collected through the Child Care Provider Market Rate Survey in Minnesota.

The Department of Human Services has received federal funding for child care activities. The Department will award one contract to

an individual or organization with expertise in conducting analysis of data collected through Child Care Provider Market Rate surveys.

The goal of this project is to conduct an analysis of the county level data gathered from all licensed child care providers by the Minnesota Child Care Resource & Referral Network. The analysis will be used to provide annual:

- A. Information on the rates charged by providers;
- B. Information on the absence policies of providers if collected during the market rate survey;
- C. Summary information at the county, region and state level of analysis for each type of rate structure and potential maximum rates for each type of rate structure;
- D. Relationship between current market rates and CCAP maximum rates; and
- E. Recommendations for improving the approach to gathering and analyzing rate survey data.

The intent of this RFP is to select a vendor to provide annual analysis, for a period of up to five years, of the rate survey data exported from the Minnesota Child Care Resource & Referral National Association of Child Care Resource and Referral Agencies rate software (NACCRRAware or Nware) data base.

The Department estimates that the costs of this analysis should not exceed \$50,000 annually, or \$250,000 over the 5 year period.

Anticipated project period is July 1, 2006 through June 30, 2011. The first contract period is anticipated to be July 1, 2006 through June 30, 2007 with continuation based upon continued funding and the state's satisfaction with the vendor's performance.

A Request for Proposal will be available by mail from this office through February 28, 2006. A written request (by direct mail or fax) is required to receive the Request for Proposal. After February 28, 2006, the Request for Proposal must be picked up in person.

The Request for Proposal can be obtained from:

Linda Bowker  
Children and Family Services  
Transition to Economic Stability  
Department of Human Services  
444 Lafayette Road North  
St. Paul, Minnesota 55122-3834  
**Phone:** (651) 297-3843  
**Fax:** (651) 297-5840

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than 4:00 p.m. on March 7, 2006. **Late proposals will not be considered.** Fax or emailed proposals will **NOT** be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

## Department of Natural Resources

### Request for Proposals to Prepare and Execute a Study of Northern Minnesota Boating During Summer of 2006

The Minnesota Department of Natural Resources (DNR) is requesting proposals from qualified firms and individuals to conduct a study of Northern MN boating from Memorial Day weekend to Labor Day 2006 (study area approximately: northern Cass and Itasca County). The study will involve aerial boat counts and boater interviews. The study will provide information to the DNR's water access and boating safety programs. Similar studies have been done in other parts of the state, and this study will be designed to provide comparable information.

The goals of the project are to measure the quantity and source of boating use on Northern Minnesota lakes, and to measure boater characteristics and attitudes concerning their experience on the water. The quantity and source of boating use will largely be determined from aerial counts, while interviews and/or mail surveys will be used to measure boater characteristics and attitudes. The specific objectives are to:

- A. Measure total use by source of boater
  1. Determine directly—from aerial counts—boat density distribution at peak times on fair weather weekdays and weekends/holidays.
  2. As part of each aerial count, determine the number of boats on the water from public accesses, resorts and private campgrounds.
- B. Measure Boater experiences, perceptions and characteristics by source of boater
  3. The DNR will provide the contractor with print-ready digital files of all three survey instruments: public access, resort/

# State Contracts

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private campground/marina users, and riparians. The surveys will be formatted for a mail survey, but could be adapted for in-person interviews. The contractor will propose boater-contact methods and will administer the surveys throughout the study period and area.

Prospective respondents who have any questions regarding this request for proposals, or who would like to obtain a more detailed description of this project, may call or write:

Tim Kelly  
Minnesota Department of Natural Resources, OMBS, Box 10  
500 Lafayette Road  
St. Paul, Minnesota 55155-4010  
(651) 259-5540  
**E-mail:** [tim.kelly@dnr.state.mn.us](mailto:tim.kelly@dnr.state.mn.us)

All proposals must be sent to and received by Mr. Kelly no later than 2:00 p.m. Central Time, March 6, 2006.

All final deliverables from this project will be submitted to Mr. Kelly by March 31, 2007.

It is estimated that the cost of this project should not exceed \$65,000.

## Department of Transportation (Mn/DOT)

### Engineering Services Division

#### Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the "Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Ron Bisek at (651) 296-1361 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the Department of Administration, has developed the Consultant Pre-qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway-related technical activities will be awarded using this method, however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and application forms are available on Mn/DOT's **web site** at: <http://www.dot.state.mn.us/consult>

Send completed application material to:

Ron Bisek  
Consultant Services  
Office of Technical Support  
Minnesota Department of Transportation  
Consultant Services  
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680  
St. Paul, MN 55155

**Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.**

**Department of Transportation (Mn/DOT)  
Engineering Services Division****Notice Concerning Professional/Technical Contract Opportunities**

**NOTICE TO ALL:** The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services **website** at: [www.dot.state.mn.us/consult](http://www.dot.state.mn.us/consult).

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

**Non-State Contracts & Grants**

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

**Hennepin County Designer Selection Committee (DSC)  
Advertisement for Architectural/Engineering Services**

The Hennepin County Designer Selection Committee (DSC) will be selecting architectural/engineering firms for design and construction administration services for the following projects:

- Public Safety / 911 Communications Facility
- Correctional Facility HVAC Modifications
- North Minneapolis Family Center
- Emergency Operations Center

To obtain a Request for Proposal, please access the Hennepin County **internet site** at [www.hennepin.us](http://www.hennepin.us). From the County home page, search for "DSC RFP" in the search box in the upper right corner. From the Hennepin County Designer Selection Committee page, you may view and print the document for your use.

Letters of interest are not required for RFP noted above. All proposals received by the deadline noted in the RFP will be reviewed by the Designer Selection Committee. If you experience difficulty locating or downloading the RFP, you may call Allen Rezac, Hennepin County Property Services, at (612) 348-7718.

**Metropolitan Council - Metro Transit  
Sealed Bids Sought for Replacement of Two Modulating Gas/Oil Boiler Burners  
Procurement No. 6969**

Metro Transit, a division of the Metropolitan Council, is soliciting sealed bids for replacing two modulating gas/oil boiler burners at its South Garage, located at 2100 MTC Road, Minneapolis, MN 55450.

Sealed bids are due by 2:00 PM on March 8, 2006. Bids must be submitted in accordance with the Invitation for Bids document available from:

Metropolitan Council  
Metro Transit Purchasing Department  
515 N. Cleveland Avenue  
St. Paul, MN 55114  
(612) 349-5070

## Non-State Contracts & Grants

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### Metropolitan Council - Metro Transit

#### Request for Proposals for Technical Support for Supervisory Control and Data Acquisition (SCADA) System and Communications Systems

Metro Transit, a division of the Metropolitan Council, is seeking the services of a qualified firm to provide technical support for the Hiawatha Light Rail Transit SCADA System and Communications Systems. Contract service is requested for one year with options for a second and a third year.

Proposals are due by 4:00 p.m. on March 6, 2006.

Firms interested in receiving the Request for Proposals document should contact:

Christopher Gran, Director of Purchasing  
Metro Transit  
515 N. Cleveland Avenue  
St. Paul, MN 55114  
**Phone:** (612) 349-5060  
**Fax:** (612) 349-5069  
**E-mail:** [christopher.gran@metc.state.mn.us](mailto:christopher.gran@metc.state.mn.us)

### University of Minnesota

#### Subscribe to Bid Information Service (BIS)

The University of Minnesota offers 24 hour/day, 7day/week access to all Request for Bids/Proposals through its web-based Bid Information Service (BIS). Subscriptions to BIS are free. Visit our website at [bidinfo.umn.edu](http://bidinfo.umn.edu) or call the BIS Coordinator at (612) 625-5534.

Request for Bids/Proposals are also available to the public each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Minneapolis, Minnesota 55454.

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- **Minnesota's Indian Mounds and Burial Sites:** A Synthesis of Prehistoric and Early Historic Archaeological Data, by Constance M. Arzigian and Katherine P. Stevenson, \$44.95
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